# UNITED STATES PATENT AND TRADEMARK OFFICE

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| 10/022,558 | 12/14/2001 | William P. Price | A0819 | 3759 |

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| EXAMINER |
|---|
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
| **Office Action Summary** | 10/022,558 | PRICE ET AL. |
| | **Examiner** | **Art Unit** | |
| | DANIEL LASTRA | 3688 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on _21 December 2007_.

2a)☒ This action is **FINAL**.          2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) _1-49_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-49_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1.      Claims 1-49 have been examined. Application 10/022,558 (AUDIOVISUAL SYSTEM AND METHOD FOR DISPLAYING SEGMENTED ADVERTISEMENTS TAILORED TO THE CHARACTERISTIC VIEWING PREFERENCES OF A USER) has a filing date 12/14/2001.

### *Response to Amendment*

2.      In response to Non Final Rejection filed 10/03/2007, the Applicant filed an Amendment on 12/21/2007, which amended claims 1 and 38.

### *Claim Rejections - 35 USC § 102*

3.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-21, 26-29 and 32-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Cristofalo (US 2002/0152117)

Claim 1, Cristofalo teaches:

An audiovisual system for use with a display device for displaying an audiovisual advertisement to a user, the audiovisual system comprising:

a storage subsystem adapted to receive and store audiovisual advertising segments and to retrieve and transmit stored audiovisual advertising segments, each audiovisual advertising segment having metadata indicative of the audiovisual advertising segment (see paragraphs 17, 34, 35 and 47);

a preference determination module coupled to the storage subsystem, the preference determination module responsive to user input and to the metadata to generate one or more user profiles, each user profile indicative of characteristic viewing preferences of a corresponding user (see paragraphs 17, 34, 35 and 47); and

a system controller coupled to the storage subsystem, the system controller responsive to the metadata and to the user profile corresponding to the user to form a complete multi-segment audiovisual advertisement comprising a plurality of audiovisual advertisement segments by selecting and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem and dynamically assembling the retrieved plurality of stored audiovisual advertising segments *in an appropriate order with the segments sequential to one another* to form the complete multi-segment audiovisual advertisement (see paragraph 32). Cristofalo teaches assembling or synchronizing the plurality of media objects in an appropriate order with the segments sequential to one another (*i.e.* synchronizing the audio-visual media objects) to form a multi-segment audiovisual advertisement (*i.e.* talking head actually speaks the word in the plurality of media objects).

wherein each of the segments is directed to a common subject of the multi-segment advertisement (see paragraphs 17, 34, 35 and 47); whereby the plurality of

stored audiovisual advertising segments is selected to tailor the complete multi-segment audiovisual advertisement to the characteristic viewing preferences of the user (see paragraphs 17, 34, 35 and 47).

Claim 3, <u>Cristofalo</u> teaches:

wherein the metadata is indicative of subject matter of the audiovisual advertising segment (see paragraph 47).

Claim 4, <u>Cristofalo</u> teaches:

wherein the metadata comprises at least one presentation directive corresponding to the audiovisual advertising segment (see paragraphs 17 and 34).

Claim 5, <u>Cristofalo</u> teaches:

wherein the presentation directive comprises at least one guideline regarding a sequence order of the dynamically assembled plurality of stored audiovisual advertising segments (see paragraphs 34 and 47).

Claim 6, <u>Cristofalo</u> teaches:

wherein the user profile comprises demographic information regarding the user (see paragraph 34).

Claim 7, <u>Cristofalo</u> teaches:

wherein the user profile comprises information regarding subject matter preferences of the user (see paragraph 34).

Claim 8, <u>Cristofalo</u> teaches:

wherein the user profile comprises information regarding genre preferences of the user (see paragraph 34).

Claim 9, <u>Cristofalo</u> teaches:

wherein the user profile comprises information regarding performer preferences

of the user (see paragraph 34).

Claim 10, <u>Cristofalo</u> teaches:

wherein the user profile comprises an interest parameter indicative of an

estimated time interval during which the user is predicted to continue viewing the

audiovisual advertisement (see paragraph 7).

Claim 11, <u>Cristofalo</u> teaches:

wherein the user input comprises a plurality of viewing decisions by the user and

the interest parameter is generated by the preference determination module, the

preference determination module utilizing a statistical analysis of the plurality of viewing

decisions to generate the interest parameter (see paragraph 7).

Claim 12, <u>Cristofalo</u> teaches:

wherein the preference determination module is further responsive to electronic

program guide information to generate the interest parameter (see paragraph 47).

Claim 13, <u>Cristofalo</u> teaches:

wherein the preference determination module is further responsive to current

time of day information to generate the interest parameter (see paragraph 7).

Claim 14, <u>Cristofalo</u> teaches:

wherein the preference determination module is further responsive to current

date information to generate the interest parameter (see paragraph 7).

Claim 15, <u>Cristofalo</u> teaches:

wherein the audiovisual advertisement comprises a first stored audiovisual advertising segment and a second stored audiovisual advertising segment, the first audiovisual advertising segment comprising a primary message to be displayed to the user during the estimated time interval, the second audiovisual advertising segment comprising a secondary message to be displayed to the user when the user continues viewing after the estimated time interval (see paragraph 47).

Claim 16, Cristofalo teaches:

wherein the primary message is self contained (see paragraph 47).

Claim 17, Cristofalo teaches:

wherein the primary message and the secondary message are related (see paragraph 47).

Claim 18, Cristofalo teaches:

wherein the secondary message is a continuation of the primary message (see paragraph 47).

Claim 19, Cristofalo teaches:

wherein the secondary message is self-contained (see paragraph 47).

Claim 20, Cristofalo teaches:

wherein the primary message comprises a beginning portion and a punch-line portion (see paragraph 47).

Claim 21, Cristofalo teaches:

wherein the secondary message comprises an inducement to the user to continue viewing the secondary message (see paragraph 47).

Claim 26, <u>Cristofalo</u> teaches:

wherein the audiovisual advertisement is viewed by the user in conjunction with

viewing an audiovisual program and the inducement comprises information useful

towards the user enjoying the audiovisual program (see paragraph 47).

Claim 27, <u>Cristofalo</u> teaches:

wherein the audiovisual advertisement is viewed by the user in conjunction with

viewing an audiovisual program and the inducement comprises information useful

towards the user understanding the audiovisual program (see paragraph 47).

Claim 28, <u>Cristofalo</u> teaches:

wherein the inducement comprises information useful towards the user

participating in an interactive program (see paragraph 47).

Claim 29, <u>Cristofalo</u> teaches:

wherein the system controller is further responsive to the metadata

corresponding to the audiovisual advertising segment and to the user input from a

corresponding user to record a response of the corresponding user to the

corresponding audiovisual advertising segment (see paragraph 7).

Claim 32, <u>Cristofalo</u> teaches:

wherein the system controller is further responsive to current time of day

information to retrieve the plurality of stored audiovisual advertising segments (see

paragraph 47).

Claim 33, <u>Cristofalo</u> teaches:

wherein the audiovisual advertisement is displayed to the user during an advertising interval of a program, the system controller being further responsive to subject matter of the program to retrieve the plurality of stored audiovisual advertising segments (see paragraph 47).

Claim 34, Cristofalo teaches:

wherein the system controller is further responsive to a record of audiovisual advertisements previously viewed by the user, thereby avoiding repetition of identical audiovisual advertisements (see paragraph 47).

Claim 35, Cristofalo teaches:

wherein the system controller is further responsive to a record of a first advertising segment previously viewed by the user during a first advertising break interval to select a second advertising segment to be displayed to the user during a second advertising break interval (see paragraph 47).

Claim 36, Cristofalo teaches:

wherein the system controller is further responsive to a record of a first advertising segment previously viewed by the user during an advertising break interval of a first channel to select a second advertising segment to be displayed to the user during an advertising break interval of a second channel (see paragraph 47).

Claim 37, Cristofalo teaches:

wherein the retrieved plurality of stored audiovisual advertising segments comprises at least two stored audiovisual advertising segments with substantially equal time spans (see paragraph 35).

Claim 38, <u>Cristofalo</u> teaches:

A method of displaying an audiovisual advertisement to a user viewing a display device coupled to an audiovisual system comprising a storage subsystem, the user having characteristic viewing preferences, the method comprising:

storing audiovisual advertising segments on the storage subsystem, each audiovisual advertising segment having metadata indicative of the audiovisual advertising segment (see paragraphs 7, 34 and 47);

selecting and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem in response to the metadata and to the characteristic viewing preferences of the user (see paragraphs 7, 34 and 47);

dynamically assembling the retrieved plurality of stored audiovisual advertising segments *in an appropriate order with the segments sequential to one another* to form a complete multi-segment audiovisual advertisement comprising the plurality of stored audiovisual advertisements segments, wherein each of the segments is directed to a common subject of the complete multi-segment advertisement, the complete multi-segment audiovisual advertisement formed in response to the metadata and to the characteristic viewing preferences of the user, whereby the plurality of stored audiovisual advertising segments is selected to tailor the complete multi-segment audiovisual advertisement to the characteristic viewing preferences of the user (see paragraphs 7, 34 and 47; and

displaying the complete multi-segment audiovisual advertisement on the display device (see paragraphs 7, 34 and 47).

Claim 39, <u>Cristofalo</u> teaches:

wherein the metadata is received in conjunction with the audiovisual advertising segments (see paragraphs 47).

Claim 40, <u>Cristofalo</u> teaches:

wherein storing the audiovisual advertising segments comprises storing the metadata on the storage subsystem (see paragraphs 47).

Claim 41, <u>Cristofalo</u> teaches:

wherein selecting and retrieving a plurality of stored audiovisual advertising segments comprises:

identifying the user (see paragraphs 7, 34 and 47);

providing the characteristic viewing preferences of the user, providing the metadata corresponding to the stored audiovisual advertising segments (see paragraphs 7, 34 and 47);

determining which stored audiovisual advertising segments are compatible with the characteristic viewing preferences of the user (see paragraphs 232-241); and

retrieving compatible stored audiovisual advertising segments from the storage subsystem (see paragraphs 7, 34 and 47).

Claim 42, <u>Cristofalo</u> teaches:

wherein providing the metadata comprises retrieving the metadata from the storage subsystem (see paragraph 47).

Claim 43, <u>Cristofalo</u> teaches:

wherein providing the metadata comprises analyzing the stored audiovisual advertising segments using a recognition module (see paragraphs 34 and 47).

Claim 44, Cristofalo teaches:

wherein determining which stored audiovisual advertising segments are compatible comprises comparing the metadata for each stored audiovisual advertising segment to a user profile comprising the characteristic viewing preferences of the user (see paragraphs 34 and 47).

Claim 45, Cristofalo teaches:

wherein determining which stored audiovisual advertising segments are compatible comprises responding to at least one presentation directive of the metadata to determine which stored audiovisual advertising segments are eligible for display (see paragraphs 34 and 47).

Claim 46, Cristofalo teaches:

wherein retrieving compatible stored audiovisual advertising segments is performed prior to responding to the presentation directive to determine which stored audiovisual advertising segments are eligible for display (see paragraphs 34 and 47).

Claim 47, Cristofalo teaches:

wherein retrieving compatible stored audiovisual advertising segments comprises retrieving only compatible stored audiovisual advertising segments which are scheduled for display (see paragraphs 47).

Claim 48, Cristofalo teaches:

wherein retrieving compatible stored audiovisual advertising segments comprises

retrieving default audiovisual advertising segments (see paragraphs 47).

Claim 49, Cristofalo teaches:

wherein dynamically assembling the retrieved plurality of stored audiovisual

advertising segments comprises:

determining which stored audiovisual advertising segments to schedule for

display (see paragraph 47); and

dynamically assembling the scheduled audiovisual advertising segments to form

the advertisement (see paragraphs 7, 34 and 47).

## Claim Rejections - 35 USC § 103

4.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

Claims 2, 22-25, 30 and 31 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Cristofalo (US 2002/0152117) in view of Klarfeld (US 2006/0212904).

Claim 2, Cristofalo fails to teach:

wherein the metadata is indicative of a length of the audiovisual advertising

segment. However, Klarfeld teaches that if the program being watched by a viewer

contains information regarding the length of the commercial break, the preference agent

may select stored ads of the same type (i.e. same viewer's demographic metadata) of appropriate length (i.e. advertising segments) to insert in the allotted time slot (see paragraph 241). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Cristofola's metada would include the length of an advertising segment, as taught by Klarfeld in order to synchronize the targeting of ads.

Claim 22, Cristofalo fails to teach:

wherein the inducement comprises a reward to the user for continuing to view the secondary message. However, Klarfeld teaches said limitation in paragraph 47. Therefore, It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Klarfeld financial incentive given to users for watching advertisements (see paragraph 247) would be award points, lottery tickets or clues as it is old and well known to do so.

Claims 23-25, Klarfeld fails to teach:

wherein the reward comprises points to be redeemed or a lottery or towards the user solving a puzzle or mystery. However, Official Notice is taken that it is old and well known in the promotion art to know that advertisers reward users with award points, lottery or treasure hunting clues for viewing said advertisers' ads. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Klarfeld financial incentive given to users for watching advertisements (see paragraph 247) would be award points, lottery tickets or clues as it is old and well known to do so.

Claim 30, <u>Cristofalo</u> fails to teach:

wherein the system controller is adapted to provide the recorded response to a

revenue calculating module. However, <u>Klarfeld</u> teaches said limitation in paragraphs 7.

Therefore, the same rejection applied to claim 22 is also applied to claim 30.

Claim 31, <u>Cristofalo</u> fails to teach:

wherein the system controller is further adapted to provide demographic

information regarding the corresponding user to the revenue calculating module.

However, <u>Klarfeld</u> teaches said limitation in paragraph 247. Therefore, the same

rejection applied to claim 22 is also applied to claim 31.

### *Response to Arguments*

5.      Applicant's arguments filed 12/21/2007 have been fully considered but they are

not persuasive. The Applicant argues that <u>Cristofalo</u> does not teach the limitation

"assembling the retrieved plurality of stored audiovisual advertising segments in an

appropriate order with the segments sequential to one another to form the complete

multi-segment audiovisual advertisement". The Examiner answers <u>Cristofalo</u> teaches a

"controller that contains a timing and synchronization unit, which coordinates and

synchronizes the spatial and temporal presentation of the various media objects

provided in a program where for example, an audio-visual program might contain a

synthetic talking head. The timing and synchronization unit coordinates the presentation

of the synthetic talking head and the corresponding audio media objects such that the

head appears to actually speak the words provided in the audio media objects (see

paragraph 32). Therefore, contrary to Applicant's argument, <u>Cristofalo</u> teaches

assembling or synchronizing the plurality of media objects in an appropriate order with

the segments sequential to one another (*i.e.* synchronizing the audio-visual media

objects) to form a multi-segment audiovisual advertisement (*i.e.* talking head actually

speaks the word in the plurality of media objects).

### Conclusion

6.      **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-

6720 and fax 571-273-6720.  The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, ERIC W. STAMBER can be reached on 571-272-6724.  The official Fax

number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Raquel Alvarez/
Primary Examiner, Art Unit 3622

/DANIEL LASTRA/
Art Unit 3688
March 7, 2008